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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,393	03/25/2004	Roger A. Farrara		8987

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EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT PAPER NUMBER

3654

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/810,393

Applicant(s)

FARRARA ET AL.

Examiner

Terrell H. Matthews

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/25/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 1-4 are pending in the instant application.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the indicia disposed on the exterior surface of the cushioning apparatus must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification fails to provide antecedent basis for the cushioning apparatus containing indicia disposed on an exterior surface as disclosed in claim 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeo (6244390) in view of Danneker (5984058).

Referring to claim 1,3. Yeo discloses an "In Ground Lift" as claimed. See Figs. 1-21 and respective portions of the specification. Yeo further discloses an automotive lifting system (10) having a lifting arm (180) having a substantially rectangular end; a

cushioning apparatus (See Col. 5 l. 58-60) for attaching to the substantially rectangular end of the lifting arm. Yeo does not disclose that the cushioning apparatus is a solid body of resilient material having a plurality of exterior surfaces and a front section, two adjacent side sections substantially perpendicular to the front section, and a bottom section substantially perpendicular to the side sections and the front section; or an attachment means for affixing the cushioning apparatus to the substantially rectangular square end of the automotive lift system. It should be noted however that it is broadly construed and generally understood that the support pads or of a resilient material.

Danneker discloses a "Cushioned Braking System" as claimed. See Figs. 1-7 and respective portions of the specification. Danneker further discloses an arm (14), an end cap (18) and a cushioning apparatus for attaching to the rectangular end comprising a solid body of resilient material having a plurality of exterior surfaces and a front section, two adjacent side sections substantially perpendicular to the front section, and a bottom section substantially perpendicular to the side sections and the front section as well as an attachment means for fixing the cushioning apparatus to the substantially rectangular end of the arm (See Col 5 l. 15-22 & Fig 1). It should be noted that Danneker discloses an arm (14) a substantially cylindrical, circular, or semi-circular end. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Yeo to include a cushioning apparatus of a resilient material as taught by Danneker to be attached to the end of a lift arm so that the lift arm could be provided with a padded cushion to protect the arm from scratching or interfering with the lifted item.

Referring to claim 2,4. Yeo does not disclose that the cushioning apparatus contains indicia disposed on an exterior surface. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Yeo to include indicia on the exterior surface of the cushioning apparatus to indicate which respective side the end cap was supposed to be placed.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yeo (6244390) in view of Lee (6805221).

Referring to claim 1. Yeo discloses an "In Ground Lift" as claimed. See Figs. 1-21 and respective portions of the specification. Yeo further discloses an automotive lifting system (10) having a lifting arm (180) having a substantially rectangular end; a cushioning apparatus (See Col. 5 l. 58-60) for attaching to the substantially rectangular end of the lifting arm. Yeo does not disclose that the cushioning apparatus is a solid body of resilient material having a plurality of exterior surfaces and a front section, two adjacent side sections substantially perpendicular to the front section, and a bottom section substantially perpendicular to the side sections and the front section; or an attachment means for affixing the cushioning apparatus to the substantially rectangular square end of the automotive lift system. It should be noted however that it is broadly construed and generally understood that the support pads or of a resilient material. Lee discloses a "Ladder Positioning System" as claimed. See Figs. 1-11 and respective portions of the specification. Lee further discloses a lifting arm (14) with an end cap

(24). Furthermore, Lee discloses that the end cap (24) is provided with an elastomeric pad (31) and that the end cap is provided with an attachment means (26) for affixing the cushioning apparatus (31) to a substantially rectangular arm (14) (See Col. 5 l. 20-29 & Figs. 2,11). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Yeo to include the teachings of Lee and include a padded end cap so that a padded material is protecting the metal arm from scratching the lifted item.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KATHY MATECKI
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